

**TENNESSEE DEPARTMENT OF REVENUE
REVENUE RULING # 01-18**

WARNING:

Revenue rulings are not binding on the Department. This presentation of the ruling in a redacted form is information only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Departmental policy.

SUBJECT

Application of Tennessee's sales and use tax industrial machinery exemption to receiving and distribution equipment utilized between different manufacturing plants.

SCOPE

Revenue rulings are statements regarding the substantive application of law and statements of procedure that affect the rights and duties of taxpayers and other members of the public. Revenue rulings are advisory in nature and are not binding on the Department.

FACTS

The Company is a manufacturer of various types of [TANGIBLE PERSONAL PROPERTY], which it sells on a wholesale basis, to retailers such as COMPANY 1, COMPANY 2, etc. for resale to customers. The manufacturing process for the [TANGIBLE PERSONAL PROPERTY] often begins in one plant and continues through several plants as goods-in-process until the finished product is completed in the final plant and is ready for sale. Various types of machinery and equipment are used in the integrated manufacturing process. This process is typical for the industry in that it can be segregated into three functional segments: (1) Receiving; (2) Manufacturing/Processing; and (3) Distribution.

- (1) Receiving involves the movement of unfinished materials from trucks into the materials storage area. To accomplish this receiving function, equipment such as fork lifts, conveyors, reusable transport containers and other material storage and handling devices are utilized. Upon receipt the unfinished material is temporarily held on racks and shelving located in the storage area until ready for the continuation of the manufacturing process.
- (2) Manufacturing/Processing involves the introduction of unfinished materials onto the production line where it is transformed from one state to another. This transformation includes, but is not limited to, [DESCRIPTION OF PROCESSES]. To accomplish this Manufacturing/Processing function, many

types of equipment are utilized. These include: [DESCRIPTION OF MACHINERY].

- (3) Distribution involves the movement of partially finished materials from the production line into another temporary area. When ready for shipment, the goods-in-process are moved from storage onto trucks where they are transported to other plants for further Manufacturing/Processing, or at the last plant, the finished goods are transported to the Company's customers. To accomplish this distribution function, equipment such as fork lifts, conveyors, reusable transport containers and other material storage and handling devices are utilized.

According to the taxpayer, the various Manufacturing/Processing functions described above occur within four separate yet integrated plants, each situated several miles from the other. Although, geographically separate, the four plants are said to function as one manufacturing/processing plant. Plant A performs [PROCESSING] of the [RAW MATERIAL]; Plant B performs [PROCESSING] of the [GOODS IN PROCESS]; Plant C performs the [PROCESSING] of the [GOODS IN PROCESS]; and, Plant D performs the [PROCESSING] of the [FINISHED PRODUCTS] for shipment as commercially marketable products. Collectively the four integrated plants are said to make up one continuous manufacturing process. No single plant manufactures a finished commercially marketable product. The raw materials enter Plant A and the commercially marketable products exit Plant D.

QUESTIONS

- 1) Does the receiving and distribution equipment utilized between Plants A and D, (except the receiving equipment in Plant A and distribution equipment in Plant D) qualify for Tennessee's industrial machinery exemption?
- 2) Does Tennessee's industrial machinery exemption apply to receiving and distribution equipment purchased by each plant that is part of an integrated multi-state Manufacturing/Processing network provided the plant is not the first or last plant in the integrated manufacturing process?

RULINGS

- 1) No. Assuming each plant qualifies for an industrial machinery authorization, the only receiving and distribution equipment that would qualify for the exemption would be that equipment used at each plant to: (1) move the raw materials from storage to the production line; and (2) move the finished goods from the manufacturing line to storage.
- 2) No. The fact that the manufacturing plants are part of an integrated multi-state manufacturing/processing network does not alter the conclusion that each plant is considered separately with respect to the industrial machinery exemption.

ANALYSIS

1. Tenn. Code Ann. § 67-6-206(a) provides that “[a]fter June 30, 1983, no tax is due with respect to industrial machinery.” Tenn. Code Ann. § 67-6-206(a). “Industrial machinery” is defined, in pertinent part, by Tenn. Code Ann. § 67-6-102(13) to mean:

- (A) Machinery, apparatus and equipment with all associated parts, appurtenances and accessories, ... which is necessary to, and primarily for, the fabrication or processing of tangible personal property for resale and consumption off the premises, ... where the use of such machinery, equipment or facilities is by one who engages in such fabrication or processing as one’s principal business ... ;
- (B) ...
- (C) ...
- (D) Such industrial machinery necessary to and primarily for the fabrication and processing of tangible personal property for resale ... includes, but is not limited to:
 - (i) ...
 - (ii) Equipment used in transporting raw materials from storage to the manufacturing process, and transporting finished goods from the end of the manufacturing process to storage;
- (E) ...
- (F) Such industrial machinery necessary to and primarily for the fabrication or processing of tangible personal property for resale and consumption off the premises ... does not include machinery, apparatus and equipment used prior to or after equipment exempted by Subdivision (13)(D)(ii), and does not include equipment used for maintenance or the convenience or comfort of workers;

Tenn. Code Ann. § 67-6-102(A)-(F).

For purposes of this [REVENUE] ruling, it is assumed that the taxpayer qualifies for an industrial machinery authorization number at each location in that at least fifty-one percent of the taxpayer’s gross revenues at each location are derived from fabricating tangible personal property for resale to others for use and consumption off the premises of the taxpayer.¹ Therefore, whether or not the receiving and distribution equipment utilized at each plant qualifies for the industrial machinery exemption is dependent upon whether the equipment is “necessary to, and primarily for, the fabrication or processing of tangible personal property for resale and consumption off the premises”.

By definition, industrial machinery includes equipment used to transport raw materials from storage to the manufacturing process, and equipment used to transport finished

¹ In the event this assumption is erroneous for any particular location, the industrial machinery exemption would not be applicable to any equipment at that location.

goods from the end of the manufacturing process to storage. See Tenn. Code Ann. § 67-6-102(13)(D)(ii). Specifically excluded from the definition of industrial machinery is “machinery, apparatus and equipment used prior to or after equipment exempted by subdivision (13)(D)(ii)” Tenn. Code Ann. § 67-6-102(13)(F). (Emp. added). This limitation effectively excludes from the definition of industrial machinery any machinery that is used prior to the beginning, or after the completion, of the manufacturing process.

In enacting Tenn. Code Ann. § 67-4-102(12)(F), the legislature imposed a temporal requirement that the equipment must be used during the manufacturing process. *Nuclear Fuel Services, Inc. v. Huddleston*, 920 S.W.2d 659 (Tenn. Ct. App. 1995). Thus, “industrial machinery” includes only machinery, apparatus and equipment “used during the manufacturing process, and not before raw materials are brought in to start the process, nor after the completed product has been shipped away from the manufacturing site.” *Id.* at 662.

As described by the taxpayer, there are a total of four plants involved in manufacturing various types of [TANGIBLE PERSONAL PROPERTY]. Each plant performs different procedures to the raw material. As the raw material enters each plant, finished goods subsequently exit that plant. At least they are finished goods insofar as concerns the plant that the product exited from. This is so because, for purposes of the sales and use tax, each of a taxpayer’s locations are considered separate. Indeed, a taxpayer with multiple locations in the state must separately register each location. Tenn. Comp. R. & Regs. 1320-5-1-.63. The registration certificate is not transferable and cannot be used at a location different from the location for which the certificate was issued. *Id.*

Once registered, each location must separately make application for an industrial machinery authorization number (“IM Number”). Only those manufacturers or processors who have registered are eligible to apply for an IM Number.² Again, the department looks to each registered location independently to determine whether that location qualifies for an IM Number as industrial machinery exemptions are granted or denied on a location-by-location basis. *Tennessee Farmer’s Co-Op v. Jackson*, 736 S.W.2d 87 (Tenn. 1987). See also *The Beare Co. v. Tennessee Department of Revenue*, 858 S.W.2d 906 (Tenn. 1993). Thus, despite the fact that a particular taxpayer may have multiple plants within Tennessee or be part of an integrated multi-state manufacturing/processing network, the department will nonetheless review each location independently to determine whether that location qualifies for an IM Number. If it does, then that location is eligible to claim the industrial machinery exemption. There is simply no authority to provide for the application of the IM Number to an integrated in-state or multistate manufacturing/processing network.

Based upon the foregoing, the materials that are introduced into each plant are considered “raw materials” and the materials that exit each plant are considered to be “finished goods”. The receiving equipment used to move the raw materials from trucks into the materials storage area at each plant do not qualify as industrial machinery. Similarly, the distribution equipment used to move the finished materials from storage onto trucks

² Contractors who install industrial machinery for qualified manufacturers or processors may also qualify for an IM Number.

where they are transported to other plants or to the Company's customers do not qualify as industrial machinery.

Tax exemption statutes are "construed strictly against the taxpayer with the taxpayer bearing the burden of proving entitlement to the exemption." *Jersey Miniere Zinc Co. v. Jackson*, 774 S.W.2d 928, 930 (Tenn. 1989); *Shearin v. Woods*, 597 S.W.2d 895, 896 (Tenn. 1980). Indeed, every presumption against an exemption and a well founded doubt is fatal to the claim. See *Woods v. General Oils, Inc.*, 558 S.W.2d 433. Therefore, based on the plain wording of the statutes at issue, the industrial machinery exemption cannot be expanded beyond its plain wording. There is simply no provision in the law to expand the industrial machinery exemption to include machinery, apparatus and equipment utilized between plants.

2. Receiving and distribution equipment purchased by each plant that is part of an integrated multi-state Manufacturing/Processing network is not eligible for Tennessee's industrial machinery exemption for the same reasons that receiving and distribution equipment utilized between integrated Tennessee plants does not qualify.

Steven B. McCloud
Tax Counsel

APPROVED: Ruth E. Johnson
Commissioner

DATE: 8/31/01